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**K-12 EDUCATION AGENDA**

April 17, 2002

1:30 p.m. — Room 2040

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### **I. Item 6120 – California State Library**

The California State Library provides library and information services to the legislative and executive branches of state government, members of the public and California Public Libraries. In addition, the State Library administers and promotes literacy outreach programs such as the California Literacy Campaign, develops technological systems to improve resource sharing and enhance access to information, and administers the Public Library Foundation which, based on a funding formula, provides state funding for basic local library services.

The Governor's proposed budget includes a total of \$105.7 million for the California State Library, a reduction of about \$22.1 million or 17.3% from the revised current-year budget. Of these funds, the Governor's budget proposes \$84.8 million in General Fund support, which represents a \$24 million or 22 percent reduction from the revised current year. Following are the major components of the California State Library Budget:

- **State Operations.** The Governor proposes a reduction of \$3.2 million in the California State Library State Operations budget, which includes the elimination of 18.2 personnel years. These reductions will affect the California Research Bureau, library acquisitions, outreach and technical assistance to local libraries, and regional resource sharing.
- **Library Maintenance and Repairs.** The Governor Proposes a \$76,000 augmentation for maintenance and repairs for the Library and Courts buildings.
- **Public Library Foundation.** As initially introduced, the Governor proposed a current-year reduction of \$7.9 million for this program; however, the Legislature through SB 3X 1 retained funding for the program at the originally-budgeted level. For 2002-03, the Governor proposes to reduce funding for the library foundation by \$11.2 million, leaving a budget of \$41.7 million for the program. This reduction will reduce the amount of funding available to local libraries for acquiring library materials, staff support, and operating expenses and equipment.

**Public Library Foundation (Action Item).** As part of the November revision to the 2001-02 (current-year) budget, the Governor proposed reducing funding for the Public Library Foundation by \$7.9 million. The Legislature, through Senate Bill 3X 1 rejected this proposal and retained the current year funding level for the program (\$53 million). As an additional note, the 2001-02 budget, as sent to the Governor by the Legislature, contained an additional \$4.1 million for the Public Library Foundation which was subsequently vetoed by the Governor.

For the budget year, the Governor's proposal assumes the continuation of the \$7.9 million cut and further reduces the program by \$3.3 million, for a 2002-03 reduction of \$11.2 million.

The Legislative Analyst offers no recommendations on this program; however staff recommends that funding for the Public Library Foundation be placed on the "checklist" pending the May Revision.

### **II. No Child Left Behind Act 2001 (Federal Funds)**

The federal reauthorization of the Elementary and Secondary Education Act of 1965 was signed into law (P.L. 107-110) on January 8, 2002. The "No Child Left Behind Act of 2001," authorizes approximately \$26.3 billion in federal FY 2002 for federal elementary and secondary education programs targeted to economically disadvantaged students. This is an \$8.5 billion increase from federal FY 2001. California

is slated to receive an additional \$800 million in federal NCLB Act funds, the receipt of which is contingent upon the submittal of a State Implementation Plan that outlines how the state plans to comply with the various new requirements and related state responsibilities imposed by the Act. Because the Governor's budget was crafted prior to the final approval of the federal budget for FY 2002, only \$100 million of these new funds are included in the Governor's proposed budget.

The NCLB Act of 2001 builds upon the accountability and assessment requirements of the ESEA of 1994—for which California recently received a federal waiver until November, 2003 to complete its final Title I assessment system—but is more specific and imposes consequences for non-compliance.

**Assessments:** Sets deadlines for the development of annual assessments aligned to state standards and the use of achievement on these tests as the primary measure of district and school accountability. The Act requires assessments to include the participation of all students including two additional subgroups: students with disabilities and students with limited English proficiency. Test results must include the individual student scores and be reported by race, income and other categories to measure the progress of various subgroups as well as overall trends. Specifically, states must administer annual reading/language arts and math assessments in grades 3-8 and once in grades 10-12 by 2005-06. Science assessment is required for grades 3-5, 6-9 and 10-12 by 2007-2008. Annual assessment of English proficiency for English learners is required by 2002-03.

**Accountability/Adequate Yearly Progress (AYP):** Student achievement must be comparable from year to year and all students (not just those in Title I) must make "adequate yearly progress" (AYP) in equal yearly increments toward a "proficient" level of achievement within 12 years. Both "adequate yearly progress" and "proficient" are to be defined by the state. For the last three years, the CDE has defined AYP as achieving the Academic Performance Index (API) annual growth target, which, according to the LAO, may mean redefining how the API is calculated. Relative to proficiency, the State Board of Education (SBE) recently established achievement (proficiency) levels on the language arts assessment but is still developing achievement levels for the mathematics assessment. Based on the state's current proficiency benchmark for language arts—which may not coincide with its definition of proficiency for purposes of Title I—approximately one third of all students taking the California standards test for language arts in grades 4 and 8 currently perform "below basic" or "far below basic." Approximately one half of economically disadvantaged students in those grades tested below basic or far below basic.

**Interventions/Sanctions:** Title I schools that do not achieve adequate yearly progress (AYP) goals for two consecutive years are identified as a "School Improvement" schools and **must** participate in an intervention / sanction process that becomes more severe for each year a school does not achieve its AYP. According to the LAO, currently 1,281 California schools are at some stage in the School Improvement sanctions process. CDE has identified approximately 18 California schools that could face Title I sanctions in fall 2002. The federal accountability program differs from current California's Public School Accountability Act (PSAA), specifically the II/USP program, in that the state program is voluntary and provides supplemental funding. Among the cumulative federally imposed interventions/sanctions for schools not achieving AYP in consecutive years are:

After 2 years	After 3 years	After 4 Years	After 5 years
Develop two-year improvement plan	Provide supplemental tutoring /after school services from a CDE-approved public or private vendor	<b>Corrective Action:</b> School district must do one of the following:	<b>Sanctions:</b> <ul style="list-style-type: none"> <li>• Prepare plan</li> <li>• Do one of the following within 1 year:</li> </ul>
Use 10 % of Title I funds for professional development focused on school improvement  Provide student options to transfer to another district school and pay transportation costs		<ul style="list-style-type: none"> <li>• Replace staff</li> <li>• Implement new curriculum,</li> <li>• Significantly decrease management authority at school level</li> <li>• Appoint external expert to advise school</li> <li>• Extend school day or school year</li> <li>• Restructure the internal organizational structure of the school</li> </ul>	<ul style="list-style-type: none"> <li>• Reopen school as a charter school</li> <li>• Replace most of the school staff</li> <li>• Hire private management company to operate school</li> <li>• Turn operation of school over to CDE</li> </ul>

**Data Collection:** The NCLB Act, Title I accountability system requirements include student assessment data and high school graduation rates. According to the CDE, the seventeen ESEA performance indicators the state is mandated to adopt will require a wide range of data to be collected at the student school and state levels. While some of this data is currently available, the CDE states that new systems will have to be developed and existing systems modified to capture all the data and meet the new reporting requirements. California does not currently collect student-level data, however, the Legislature is currently awaiting the imminent completion of two Budget Act studies to assess how the state collects or should collect student data. The DOF contracted study required an independent contractor to report on potential efficiencies and improvements in the CDE data collection and management. The OSE contracted study is to determine how the state should collect data on graduation rates, student and teacher attendance rates and other potential API academic indicators. Meanwhile, the CDE has submitted a proposal to the DOF to develop a state-wide longitudinal data base that will contain student-level STAR, High School Exit Exam, and English Language Development Test data. Specifically, the CDE proposes the establishment of a data management office to implement standards policies and procedures and to coordinate these activities as a key component of the longitudinal student data base system. Finally the CDE proposal requests information technology technical support for project management and oversight, Internet /Web development and applications development and maintenance to bring about the necessary technology changes needed to meet the NCLB requirements. Senator Dede Alpert has introduced SB 1453, to require the CDE to contract with an entity to develop, host and maintain a longitudinal pupil achievement data system for the STAR, California English Language Development Test (CELDT), and the High School Exit Examination (HSEE). Discussion on whether, or how, any longitudinal data system will be linked with the current California Student Information Services (CSIS) system will be further addressed in the context of the Subcommittee's April 24<sup>th</sup> hearing.

**A. State Implementation Plan.** Prior to receiving NCLB Act funds the law requires states to develop and submit a plan for implementing the new requirements of the Act. The plan is due to the U.S Department of Education by May 28, 2002. This initial plan, to be refined through a subsequent plan

supplement due in May, 2003, is to outline how the state intends to achieve the 6 mandated “ESEA Performance Goals:”

1. By 2013-2014, all students will reach high standards, at a minimum attaining proficiency or better in reading and mathematics.
2. By 2013-14 all students will be proficient in reading by the end of the third grade
3. All limited English proficient students will become proficient in English.
4. By 2005-06, all students will be taught by highly qualified teachers.
5. All students will be educated in learning environments that are safe, drug-free and conducive to learning.
6. All students will graduate from high school.

The CDE will submit its state plan to the State Board of Education (SBE) for approval at the Board’s April 24-25 meeting. The Legislature will appropriate the new NCLB funds through the 2002-03 budget process.

- B. Title I.** The federal government provides the state with \$1.78 billion of Title I funds the purpose of which is to focus on improving the quality of education for socio-economically disadvantaged children. While the Governor’s Budget assumes a \$60.0 million increase in Title I program federal funds, the state has since received additional funds and the total increase over 2001-02 is \$411 million, or 30 percent.

1. **Title I Part A. Disadvantaged Children Meet High Academic Standards.** This comprises the largest ESEA program and makes up the bulk of the new federal funds (\$268 million) which are distributed to local education agencies on a targeted grant formula (v. competitive) basis. However, the new accountability provisions of Title I Part A require that states reserve a minimum of 2 percent (increases to 4 percent in 2003-04) of these allocations for “School Improvement” purposes (including interventions and sanctions) in 2002-03. For California, this means \$29.1 million of its \$411 million increase must be used for School Improvement to meet this requirement in the budget year. **Proposals for use of these funds will be discussed in section “IV. Accountability,”** below. It is unclear whether the 2 percent constitutes a “maximum” as well or whether the CDE can or will seek a waiver for the authority to use more of these funds for school improvement in 2002-03. In addition, the NCLB allows a state set aside of up to 1 percent of their total basic grant for related state operations activities. For California, 1 percent of the increased funding for Title I Part A translates into \$7.32 million in additional federal funds (\$14.5 million total) for state operations to implement this program.
2. **Title I Part B. Student Reading Skills Improvement Grants: “Reading First.”** This is a new program to assist states and local education agencies in establishing scientific research-based reading programs for all children in Kindergarten through grade three. It replaces the Reading Excellence Program, a competitive grant program to states. **California is slated to receive \$133.0 million for this program.** Funds for this new program are to go to states under a poverty-based formula. Beginning in 2004, up to 10 percent of new funds would be available as incentive grants to states that successfully increase the number of students reading at a proficient level. States may use 20 percent of the funds to a) develop and implement a program of professional development for teachers of grades K-3 (\$17.3 million—13%); b) provide technical to help local school district in implementing Reading First and Early Reading First and to identify and fund eligible alternative providers of reading instruction selected by the student’s parents (\$6.7 million—5%); and c) provide state support for planning administration and reporting (\$2.66 million—2%). States must distribute at least 80 percent of their funds to LEAs through a competitive process. In doing so states must give priority to high poverty areas in which there are a high percentage of students in grades K-3 reading below grade level. In addition, LEAs are required to target funds within the district to schools with high percentages of students below the

poverty line, or that have a high percentage of K-3 students reading below grade level, and are also identified for school improvement under Title I.

***Subcommittee #1 Action:***

- C. Title II. Part D—Enhancing Education Through Technology.** New funding for states under the existing Educational Technology Grants results from the elimination of five other federal educational technology programs (LEA competitive grants) that were not reauthorized under the new NCLB Act. Among the major programs eliminated were the: Technology Literacy Challenge Fund, Technology Innovation Challenge grants and Preparing Tomorrow's Teachers to Use Technology program. **California will receive an additional \$30 million** under the newly authorized Education State Grants program that can be used for: promoting innovative state and local initiatives using technology to increase academic achievement; increasing access to technology, especially for high-need schools; and improving and expanding teacher professional development in technology. Of the local assistance funds, 50 percent of the \$85.5 million in total funds provided in 2002 is to be distributed through a state formula based 100 percent on what the state received under Title I Part A, while the other 50 percent is to be distributed on a competitive basis. Five percent of the total funds (\$4.3 million) can be used to provide technical assistance and to conduct a longitudinal study of the effectiveness of using educational technology to increase student academic achievement.

***Subcommittee #1 Action:***

- D. Title III. English Language Acquisition, Language Enhancement and Academic Achievement Act.** The NCLB Act consolidates the Bilingual Education Act (a federal competitive grant to LEAs) with the Emergency Immigrant Education program; a total of 13 bilingual and immigrant education programs. Under the new consolidated program, **California is to receive \$115 million**, or \$83.3 million more than it received in 2001 under the former Immigrant Education program. Funds are provided to states on a formula that is based 80 percent on the number of limited English proficient (LEP) children in the state and 20 percent on the number of immigrant children and youth in the state. Ninety five percent of the funds must be used for grants to eligible LEAs to teach limited English proficient (LEP) children. Three percent of the funds (\$3.5 million) are available for state operations purposes and 2 percent (\$2.3 million) for "other state level activities." \

Eligible entities are able to choose the method of instruction they would use to teach limited English proficient children. (NCLB eliminated the requirement that 75 percent of funding be used to support programs using a child's native language for instruction). LEAs are required to provide informed parental notification as to why their child is in need of placement in a specialized language instruction program. Parents have the right to choose among instruction programs if more than one type of program is offered and have the right to immediately remove their child from a program for LEP children. NCLB also requires LEAs to implement effective means of parental outreach to encourage parents to become informed and active participants in their child's participation on a language instruction educational program

The LAO recommends that \$2.1 million of these federal local assistance funds be used to offset the Governor's proposed General Fund increase of \$2.1 million to cover the additional costs of district

apportionments for administering the California English Language Development Test (CELDT). According to the LAO this would free up \$2.1 million in General Funds for other educational priorities. This use of federal funds seems to meet the federal anti supplanting restrictions on this funding.

***Subcommittee #1 Action:***

**E. Title VI. State Assessment.** The NCLB Act provides California with \$28.9 million to offset state costs associated with the new ESEA assessment requirements; specifically, the development and administration of state standards-aligned assessments in language arts and mathematics in grades 3-8.

- 1. LAO General Fund Offset Proposal.** Since California is one of nine states whose current assessment system essentially meets the new federal testing requirement, the LAO is proposing that \$2.1 million of these federal funds be used to offset a corresponding General Fund increase proposed in the Governor's budget, for the state Standardized Testing and Reporting (STAR) program. The LAO reiterates its position regarding federal anti supplanting restrictions on these funds similar to that for federal English Language Acquisition funds, opining that the \$2.1 million in federal funds may be used for cover proposed STAR growth and COLA costs. This would therefore, free up \$2.1 million in General Funds.

***Subcommittee #1 Action:***

- 2. LAO Federal Waiver Proposal: Reallocate Assessment Funds for Title I Needs.** Considering that California's assessment system substantially meets the new federal NCLB Act requirements and the fact that the potential intervention and assistance needs (discussed in **IV. Accountability** below) for California's low performing schools exceed the funding proposed in Governor's 2002-03 Budget, the LAO recommends that the Legislature direct the CDE to seek a federal waiver to reallocate \$26.5 million of the remaining \$26.8 million (\$28.9 million -\$2.1 million) in federal assessment funds for federally required assistance and intervention in Title I schools. A waiver would be necessary because while the new NCLB Act encourages inter-program funding flexibility to encourage states to move funds into Title I programs, the federal assessment funding does not fall within these flexibility provisions.

***Subcommittee #1 Action:***

- 3. LAO Proposal: Assessment funds for CDE STAR-related Workload (6110-001-0890).** The state assessment system or Standardized Testing and Reporting (STAR) Program, was established by Chapter 975 Statutes of 1995 (AB 265 Alpert). Reauthorized until January 1, 2005 by Chapter 722, Statutes of 2001 (SB 233, Alpert), the STAR program consists of three tests administered in multiple subjects: The Stanford-9 (nationally norm referenced test), the California Standards Tests and the

Spanish Assessment of Basic Education (SABE II). CDE's assessment related workload has increased over the years in part due to the expansion of grade specific and subject specific tests—mainly the California Standards Tests—( from 42 in 1998 to the current 100). Pursuant to Chapter 722, the CDE also must now link the Golden State Exams—a series of 13 rigorous, standards-aligned (except 2<sup>nd</sup> year Spanish) exams in key academic subjects for grades 7-12—with the California Standards Tests in subject areas where both are offered. In addition, the CDE, while receiving no additional support when the program was established, must support the Governor's Scholarshare Program (administered by the Treasurer's Office) by dealing with program eligibility issues. In light of the above, the LAO is recommending that the CDE be provided with \$300,000 of the federal assessment funds and three permanent positions to address the increased STAR administration workload. In particular it has been mentioned that a high priority need for the CDE is for a psychometrician, to assist the department with test development and test validity components of the state's assessment system.

***Subcommittee #1 Action:***

- 4. California Department of Education (CDE) Title IV Proposal.** The CDE, in a Budget Change Proposal submitted to the Department of Finance in March, requested \$29,189,880 from the reauthorized ESEA, No Child Left Behind Act to continue development of California's statewide assessment and accountability system to meet the higher level of accountability required by the Act including the collection and analysis of longitudinal student and school data. The BCP request includes 19 positions for the development, administrative and monitoring tasks required of a state's educational agency under the Act.

According to the CDE, the proposals are designed to meet significant needs within CDE in the assessment and accountability area while also maintaining flexibility over the use of Title VI funds in future years. This flexibility is necessary since final federal regulations governing the Act will not be published until later this year, and it is unclear precisely how the NCLB Act will directly affect California's program. However, a literal reading of the Act suggests that California will have to enact several major changes to its assessment and accountability programs. The CDE proposal, therefore, focuses on those activity areas that may not require federal changes. The proposal also limits to \$17.0 million, or 57 percent, of the \$29.8 million available the amount of ongoing funding obligations to allow future state flexibility in 2003-04 when the final regulations specifying the state requirements will be available. The following is a list of the CDE's proposals:

	<i>(dollars in millions)</i>
• Contract to establish a longitudinal data base that would contain student –level STAR, High School Exit Exam and English Language Development Test data.	\$6.0
• Complete development and continue administration activities for the Alternative Schools Accountability Model (ASAM).	.775
• Training and ongoing technical assistance to ASAM schools and provide ongoing monitoring and evaluation of the impact of the ASAM.	.670
• Improve state assessment accommodations to improve participation of disabled students. (1 position)	.140
• Provide technical assistance to LEAs to refine state standards	.640



and assessments for students with disabilities; \$500,000 of which is for a contract to develop training materials and provide statewide training assisting student in providing a standards-based curriculum to students with disabilities with the appropriate use of accommodations for state assessments. (1 position)	
• Set-aside for development and implementation of an alternate assessment for students who cannot take the statewide HSEE even with accommodations or modifications.	3.0
• Develop and implement the standards-based science tests, as approved by the State Board of Education, for students in grade 5.	.800
• Develop workbooks that students and their parents can use to increase their understanding of the state content standards and the statewide California Standards Test. \$2.5 million of this amount is for the initial development of “camera-ready” copies of student workbooks enabling students and their parents to work together at home to prepare for success on the California Standards Tests, grades 2-11.	2.86
• Develop website targeted at parents to inform them of the purpose of each state assessment and accountability programs.	1.0
• Support for new STAR program options as part of the 2002-05 STAR contract for a new norm referenced test to replace the SAT 9.	2.0
• Increase the level of local reimbursement for the California English Language Development Test (CELDT) to \$5.0 per student.	5.6
• Develop an alternative assessment instrument for English Learners students who are unable to participate in the CELDT even with appropriate accommodations.	.750
• Develop a pilot program for a computer-based version of the CELDT.	.500
• Develop additional CELDT test items	.500
• Develop training materials for teachers on using assessment data on state standards to improve instruction. (3 positions)	2.31
• Develop an Assessment Data Collections and Edit software application usable by any California school district that would simplify districts’ assessment-related administration and result in more accurate and current student demographic information.	.300
• Provide an adequate level of staff support for the existing level of program workload for the CDE Assessment Division. (7 positions)	.920
• Provide funding for three positions in the Policy and Evaluation Division to support the new accountability requirements in the NCLB Act.	.420

### **III. Assessment (General Fund)**

The Governor's budget proposes \$137.6 million for the development and administration of California's assessment programs including the High School Exit Exam, English Language Development Assessment, the STAR examination and the Golden State Examinations.

**High School Exit Exam Workbooks.** The Governor's budget provides \$2.35 million (ongoing) to the CDE to contract for the development and distribution of student workbooks to help pupils prepare for the High School Exit Exam (HSEE). In 2002-02, \$3.0 million in one-time Proposition 98 Reversion Account funds were provided for this purpose.

According to budget trailer bill language enacted as part of the 2001-02 budget, one workbook is to be distributed to all pupils in the tenth grade. These workbooks are to assist in ensuring the HSEE is fair and legally defensible by helping ensure students have adequate "opportunity to learn" the material included on the HSEE. The workbook is to contain:

- Information on the proficiency levels that must be demonstrated by pupils on the HSEE.
- Sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the State Board of Education (SBE).

According to the CDE, all four proposals received in response to the Departments RFP for the workbook contract were rejected and another RFP was recently released. A contract is expected to be in place by June, 2002. Therefore, current year funding for the HSEE workbooks has not gone out. The Subcommittee may wish to ascertain whether or not any of the current year funds will be expended in the current year and if any remaining funds could be carried over to the budget year, thus freeing up the budget year funds for other educational purposes.

#### ***Subcommittee #1 Action:***

### **IV. Accountability**

**The Public School Accountability Act (PSAA) (6110-123-0001)** was established in Chapter 3x, Statutes of 1999-00, First Extraordinary Session. It encompasses a number of related programs designed to assess the quality and progress of California's public schools. It created a statewide school accountability system which:

- Rewards schools for academic achievement,
- Provides assistance for lower performing schools, and
- Potentially sanctions schools which continue to fail after receiving external assistance.

The three main components of the PSAA are: (1) the Academic Performance Index (API), which measures a school's academic performance and the growth in performance over time and is the measure by which participants of the other two components are determined; (2) immediate Intervention/Underperforming Schools Program (II/USP), which provides assistance to lower performing schools; and (3) the Governor's Performance Award Program (GPAP), which rewards schools for academic achievement. All are currently in the process of being implemented, but complete implementation as intended by statute is still a number of years away.

**A. Academic Performance Index (API) -- (Information Only).** The API is the cornerstone of the PSAA. Its purpose is to measure a school's academic performance and the growth in performance over time. However, the API is still a work in progress. It is currently based on only one measure, the Stanford 9 test results. This is an "off-the-shelf" nationally normed student assessment published by Harcourt Brace and administered to students in grades 2-11. Beginning with the 2002 API, however, the CDE will include the English-language arts and mathematics (except to the extent that performance standards for the standardized mathematics tests, which have yet to be adopted are involved) California Standards Test in the API. Other California Standards Tests in science and social science will be added to the API in the future. The PSAA requires the API include at least four additional measures: graduation rates, student attendance rate, teacher attendance rate and the High School Exit Exam (HSEE). The purpose of these additional measures is to ensure that increases in the API are based upon real gains in achievement and not temporary fluctuations in a single measure. The CDE has not included these additional measures in the API because either it cannot collect accurate school-level data on either the graduation or attendance rates, and because neither the Standards-Aligned STAR nor the High School Exit Exam are fully operational. Because the API is not fully developed as intended by the PSAA, concerns have been raised on the rationale of awarding millions of dollars in performance awards based solely on an assessment (Stanford 9) which is not even aligned to state academic content standards.

**B. API-Related Award Programs.**

- 1. Governor's Performance Awards.** The Governor's budget proposes \$157.0 million for the PSAA High Achieving/Improving Schools Program (AKA: Governor's Performance Awards). These awards will be granted to schools that meet the following growth and participation targets as measured by the API:
  - A 5 percent API score increase of the difference between the school's prior-year score and 800, or an API score increase of five points, whichever is greater;
  - All subgroups meeting 80 percent of the school's target;
  - Student participation rate of 95 percent of eligible test takers for elementary and middle schools and 90 percent of eligible test takers for high schools.
  - For schools with API scores above 711, the Governor proposed, and the Legislature adopted, budget trailer bill language in 2001, that requires a five point gain versus the current 1 to 4 point gain. It also limits the number of students schools can count in claiming the rewards. Excluded are kindergartners, 1<sup>st</sup> graders, seniors, and anyone else who does not actually take the exam. In January, 2001, the State Board of Education (SBE), in an attempt to boost test participation, voted to retroactively disqualify any school from the rewards program if 15 percent or more of their students had parental waivers from taking the test last spring.

While the program provides awards for up to \$150 per student, the \$144.3 million allocated for the program in 2001-02—including the additional \$12.7 million current year reduction made in Chapter 1, Statutes of the Third Extraordinary Session of 2002, in January—was only sufficient to fund the Performance Awards at **\$80** per student. However, this was an increase over the previous year's \$63 per student award, perhaps due to the trend whereby fewer and fewer schools are meeting their API growth target.

***Subcommittee #1 Action:***

- 2. Certificated Staff Performance Incentive Act Awards. (6110-133-0001).** While not officially part of the PSAA, these awards are part of the state's overall accountability efforts and are linked to the PSAA by using the API as a determining measure. The Governor's 2002-03 budget proposes \$50.0 million for site-based Certificated Staff Performance Incentive Act awards. This program was created by AB 1114 (Chapter 52, Statutes of 1999). Under the program teachers and other staff in low performing schools—those ranking in the bottom half of the API—that most exceed their statewide performance targets, are eligible for one-time performance awards of \$5,000, \$10,000, or \$25,000. The actual amount of the awards may vary because under the law, districts and unions must negotiate how the funds are distributed among the certificated school staff. In the November Revision, the Governor proposed reducing the 2001-02 appropriation from \$100.0 million to \$50 million and cutting the number of awards in each category in half. Based on Chapter 52 and SBE regulations, 500 teachers and principals would have received \$25,000 bonuses; another 1,875 member group: \$10,000 bonuses, and another group of 3,750 staff: \$5,000 awards in the current year. The Legislature, in the Third Extraordinary Session, however, suspended this program on a one time basis thus eliminating the program's funding in 2001-02.

The LAO recommends that the Legislature to eliminate the Certificated Staff Performance Award Program; saving \$50.0 million in (Proposition 98) General Funds for other education purposes because:

- The awards may go to schools based on short term fluctuations in test scores v. long term academic growth.
- The small number of awards is not likely to create a strong incentive for teachers and principals because the probability of receiving an award is so small and there is so little direct connection between the receiving the award and their hard work. . In addition, unlike the Governor's performance awards, schools are not able to determine the exact achievement gain necessary to receive an award.
- There is little discretion over the use of the rewards. They can only be used for teacher bonuses and not for improvements in educational services to students.

The DOF, in response to the LAO's comments, cites a report by Dr. David Rogosa, from Stanford University, that examines the progress of a number of elementary, middle and high schools given AB 1114 (Certificated )awards; concluding that these schools, by and large, did continue to improve over the 1999-00 in the 2001-02 period or at least maintained the improvement made in the 1999-00 period.

It should be noted that elimination, opposed to suspension, of this program would require a change in statute. However, since SB 1114 states that the level of awards to teachers can not exceed the amount appropriated for that purpose, the Legislature could also take an action to suspend, i.e.: eliminate the funding for, this program in 2002-03, without removing the program from statute.

***Subcommittee #1 Action:***

- C. Federal Title I Accountability Requirements.** As mentioned above in the ESEA / NCLB Act Title I discussion, the reauthorization of the ESEA Title I makes major changes to the federal

government's statewide Title I plan. The ESEA reauthorization requires states to have one accountability system meeting both the state and federal requirements. One of the main differences between Title I accountability requirements and the states is how academic improvement is measured. Federal law requires states to improve the achievement of all students to a state defined proficiency level over a 12 year period. A key issue in aligning the state and federal accountability systems will be in redefining the API to measure the progress of students achievement toward meeting the proficiency requirement and defining the term "proficient" which implicitly defines the "adequate yearly progress" (AYP) that schools must make to avoid interventions and sanctions. California's current proficiency designation for the California Standards tests is such that only one third of students presently meet the definition of proficient or above. In some of the state's lower performing schools, only 5 percent to 10 percent of students currently perform at a proficient level. These latter schools would have to achieve unprecedented growth to move all students to a SBE-defined proficiency level over the required 12 year period. To this end, California, to conform to federal law, must also define adequate yearly progress—that to date has been defined as meeting the API growth target annually—to ensure that schools will reach the required proficiency level over a 12 year period. This redefinition will involve adjusting the way the API is calculated.

**The LAO recommends that the Legislature amend the PSAA to align the federal Title I accountability systems by :**

- **Defining minimum proficiency level for all students for Title I purposes.**
- **Adjusting the API calculation to measure the growth in the number of students meeting the Title I proficiency level.**

***Subcommittee #1 Action:***

#### **D. Low Performing Schools Assistance Interventions and Sanctions:**

In accountability systems, interventions are the first steps taken after a school has demonstrated a lack of progress in meeting its goals. The CDE administers four low performing school intervention programs including:

1. Title I Accountability-School Improvement (federal).
2. The High Priority Grant Program (HP) Check \$38 million Nov Revise.
3. The Intermediate Intervention for Underperforming Schools Program (II/USP).
4. Comprehensive School Reform Demonstration (CSRD) (federal)

Schools participating in these programs must begin to improve the academic performance of its students or face increasingly severe interventions and sanctions. The first set of participating California schools could potentially face sanctions in the fall of this year.

As mentioned earlier, the new accountability provisions of the reauthorized ESEA Title I Part A reserve a minimum of 2 percent, (\$29.1 million in California), of these funds for School Improvement activities in 2002-03. It is unclear whether the 2 percent constitutes a "maximum" as well or whether the CDE can or will seek a waiver for the authority to use more of these funds for school improvement in 2002-03. The Governor's budget does not include the increased Title I Part A

funding so it does not include a spending plan for the \$29.1 million reserved for School Improvement Funds. Noting that this amount may not be sufficient to cover the potential additional costs of implementing interventions and sanctions, the LAO has suggested that the CDE seek a waiver to redirect \$26.5 million of the \$28.9 million in federal funds provided for federal assessment requirements to Title I School Improvement efforts (See II. NCLB Act, D. Title VI State Assessment, above).

**1. Title I Accountability-School Improvement.** As addressed in the No Child Left Behind Act overview section of this document, Title I schools that do not make “adequate yearly progress” (AYP) for two consecutive years are deemed “School Improvement” schools under federal law and are subject to an increasingly stringent intervention and sanctions timeline for not attaining AYP. Congress added various requirements to these sanctions as part of the ESEA reauthorization including:

- Expanding school choice provisions for school improvement,
- Requiring schools to use Title I funding for public or private tutoring
- Providing more serious sanctions for schools that continue to fail.

The timeline for those schools previously identified as Improvement schools does not start over with the new reauthorization components. Schools that achieve their AYP for two out of three years exit the School Improvement program. However, many schools will have to use their Title I funds to provide greater school choice and offer tutoring and after school vouchers in 2002-03. Some schools will face corrective actions. Currently 1,281 California schools are in some stage of School Improvement intervention. CDE has identified as many as 18 schools that could face Title I sanctions this fall. The number of schools sanctioned is likely to increase in subsequent years.

CDE is required under federal law to determine from a menu of options how School Improvement schools are sanctioned. The sanctions process established by the PSAA would meet the federal sanction requirements.

In order to align the state and federal accountability systems, **the LAO recommends that the Legislature enact legislation to include School Improvement schools subject to federal sanctions in the PSAA sanctioning process.**

***Subcommittee #1 Action:***

**2. The High Priority Grant Program (HP).** This program was established by Chapter 749, Statutes of 2001 (AB 961, Steinberg) to provide assistance to the lowest performing schools (deciles 1-5) with priority given to those in deciles one and two. While the \$197.0 originally provided in the 2001-02 budget was deferred to the budget year by the November Revision, funding for the HP program is to provide an additional \$200 per pupil to those schools, as required by the statute, participating in the PSAA’s Intermediate Intervention for Underperforming Schools (II/USP) program, for a total of \$400 per pupil for improvement plan implementation. Chapter 1, Statutes of 2002, Third Extraordinary Session, (SB 1xxx, Peace) did provide \$18 million for planning grants for decile 1 schools in anticipation of the HP program being fully funded in the budget year, with 87 districts representing 359 schools, applying to

receive the planning grants. According to the CDE all but \$50,000 of the \$18 million has been allocated. First priority for these funds was to be given to HP program applicants that committed to apply for participation in the federal Comprehensive School Reform Demonstration (CSRD) Program (described below) by May 15, 2002. For the 88 decile 1 schools that applied but did not receive state HP planning grant funding, unencumbered federal CSRD funds are available for this purpose. According to the LAO, approximately \$22.3 million in CSRD funds must be expended soon in order to avoid reversion back to the federal government. The LAO estimates that the CDE would need to provide the \$200 per pupil grants to 110 schools (with 1,000 ADA) in order not to lose these funds. Another \$29.5 million is available in the budget year that must be encumbered within 3 years, in order not to revert to the federal government.

An additional \$20 million was provided in SB 1xxx, for planning grants for decile 2 schools that applied for both the HP and CSRD programs and will be distributed during the budget year.

The Subcommittee may wish to ascertain from the CDE the status of the CSRD funding applications and the implications for fully funding decile 1 schools and encumbering the current year CSRD funds before they revert back to the federal government.

To streamline the various planning requirements of the various intervention programs, and in light of the fact that the Legislature cannot change the requirements of the School Improvement or School Improvement Plan, **the LAO recommends that the Legislature:**

- a. Allow a CSRD application or a School Improvement corrective action plan to meet the planning requirements of a II/USP or HP school.
- b. Consolidate the planning requirements of the II/USP and HP intervention programs.

***Subcommittee #1 Action:***

3. **The Intermediate Intervention for Underperforming Schools Program (II/USP).** The budget includes a \$29.6 million General Fund augmentation (\$190.6 million General Fund and \$33.0 million federal funds) for the Immediate Intervention/ Underperforming Schools Program (II/USP) as established in the Public Schools Accountability Act (PSAA) (SB1, Chapter 3, Statutes of 1999, First Extraordinary Session). The total amount fully funds implementation grants for three cohorts (430 schools each) in the School Accountability, Rewards and Intervention Program at \$200 per pupil. This program provides resources for under-performing schools to support development and implementation of school action plans aimed at increasing student achievement. There are no planning grants funded in the budget year because there is no new, or fourth, cohort proposed in the budget year. The “first” cohort schools, that are receiving their second year of implementation grants in the 2001-02 fiscal year, will be assessed in the fall of 2002 as to whether or not they will be subject to 1) Release from the program for meeting their API targets; 2) sanctions for failing to make “significant progress” toward meeting their API targets; or 3) a third year of implementation funding for achieving “significant progress” toward their API targets. The budget assumes that 80 percent of these cohort 1 schools will qualify for a third year of funding. The remaining 20 percent will be subject to either sanctions or awards. In January, Senator Alpert introduced SB 1310, to provide clarification regarding the implementation of the “take over” provisions of the II/USP, specifically regarding the areas of principal hearings, timing of implementation, funding for schools, exit criteria for sanctioned schools, facilities funds, data issues and deadlines.

**Note:** SB 1xxx, (Peace), enacted in January as part of the 2001-02 “November Revision,” provided \$8.0 million in one-time Proposition 98 Reversion Account funds to allow II/USP schools which received their first year of implementation funding in 2000-01, to receive a third year of implementation funding if they 1) achieved their API growth targets for two consecutive years, 2) were not receiving CSRD funds and 3) were in API decile 1 in 2000-01.

At its February, 2002 meeting the SBE defined “significant growth” as making positive growth in one of the two implementation years. Based on data representing the achievement of II/USP schools in their planning and first year implementation grant years (1999-00 and 2000-01) and extrapolating similar data to determine which schools make significant growth (2000-01 and 2001-02) this fall, the LAO estimates that approximately two-thirds v. the Administration’s 80 percent figure, would make significant growth and receive a third year of funding. **The LAO, therefore, estimates that the II/USP program is over budgeted by \$6.0 million.**

- a). **LAO Proposal for “Over-budgeted ” II/USP funds.** Under Chapter 749, Statutes of 2001, (AB 961, Steinberg) the Superintendent of Public Instruction (SPI) may require a school district with an II/USP school that is subject to state sanctions to contract with a “school assistance and intervention team” to provide intensive support and expertise to implement school reform. In that schools would have to pay for these services the **LAO recommends that the Legislature adopt budget bill language authorizing the CDE to use any excess II/USP funds to 1) assist school districts in paying for school assistance and intervention teams and 2). assist school districts in paying for costs of other state sanctions.**

***Subcommittee #1 Action:***

- b) **LAO Proposal for State Operations Component of Title I Part A School Improvement Funds.** Most of the II/USP schools subject to sanctions are likely to also be School Improvement schools.

While some of the external evaluators currently assisting II/USP schools may be qualified to participate on the above referenced school assistance and intervention teams, these teams presently do not exist and it is questionable whether they will be in place by fall 2002 when they could be initially called upon for school intervention. The LAO recommends that of the \$1.5 million (5 percent) of Title I Part A Improvement funds (\$29.1 million) that the state can use for state operation purposes, a portion of these funds be used to establish and train school assistance and intervention teams.

***Subcommittee #1 Action:***

4. **The Comprehensive School Reform Demonstration (CSRD) Program.** Until recently, **only II/USP** eligible schools were allowed to apply to the federally funded Comprehensive School Reform Demonstration Program (CSRD) which provides competitive grants to low performing schools to



initiate structural reforms, including improved resource allocation, instruction and curriculum, classroom management and professional development. The CDE has expanded eligibility in applying for CSRD for spring 2002, to all Title I schools in II/USP, HP, and Title I School Improvement. Like the II/USP program, the CSRD program requires participating schools to contract with an “external evaluator” to assist in school reform. While this program, until the current year, provided a higher, (\$200) per pupil rate than the state program, which has no per student funding guarantee and continues to provide an additional (third) year of implementation grants; eligible schools typically have not availed themselves to this program due to its more competitive application process and rigorous planning, reporting and evaluation process. As a result, the state’s federal CSRD grant funds have gone largely unused. (Barring corrective action, this problem will likely worsen in the budget year since the 2001-02 Budget Act removed the financial incentive for applying for the CSRD funds by increasing the per pupil rate from a proposed \$146-\$168 in 2000-01-to \$200.) For example, \$2.5 million of \$26.5 million in federal CSRD funds available to schools in the 2000-01 Budget Act were reverted back to the federal government when there were no takers for that money by September 30, 2001, the end of the federal fiscal year. For 2001-02, only \$10.6 million of \$32.9 million in CSRD funds were encumbered by the state’s schools leaving \$22.3 million for which the state needs to encumber prior to September 30, 2002. The state will be receiving an additional \$40.1million in 2002-03. The Governor’s budget assumes a \$32.0 million

Currently, CSRD applicants must meet 9 CSRD requirements and complete a 22 requirement II/USP action plan. However, except for a requirement that its components align with state academic content standards, the 9 CSRD application requirements are very similar to the general goals of the II/USP action plan’s 22 requirements. In order to reduce the current disincentive to apply for the CSRD program the **LAO recommends that the Legislature enact legislation to allow a State Board of Education (SBE)-approved CSRD application—with the added requirement that all components of the CSRD application are aligned to state academic content standards—to substitute for the requirements of the II/USP action plan.**

To provide a long term solution to the problem of timely expenditure of CSRD funds, **the LAO also recommends that the Legislature adopt legislation to give priority to schools that commit to apply for CSRD funding when selecting future II/USP cohorts.**

***Subcommittee #1 Action:***

- E. PSAA Evaluation.** The Governor’s proposed budget contains no additional funds for a second year of the PSAA evaluation. The PSAA requires the CDE to contract for an external evaluation of the PSAA including the Governor’s Performance Awards Program, the II/USP program and the impact of these programs on student achievement. The 2000-01 Budget Act provided CDE with an initial \$250,000 for the PSAA evaluation. Due to a lack of qualified bids received by CDE in response to the summer 2000 release of the Request For Proposal, this amount was carried over in the current year and together with \$250,000 in additional Goals 2000 funds, a total of \$500,000 was available for the evaluation in 2001-02. The CDE has contracted with American Institute of Research (AIR) to conduct the evaluation.

LAO believes that the available \$500,000 is inadequate given the complexity and extensiveness of issues that the evaluation must address including the implementation, impact, costs, and benefits of II/USP and Governor’s Performance Awards Program. In addition, the CDE had requested a

multiyear evaluation costing up to \$500,000 per year in its RFPs for the evaluation and not funding the second year, according to the LAO, would significantly reduce the value of the study. Other considerations include the state's distribution of over \$1.7 billion related to these programs between 1999-00 and 2001-02, and, perhaps most important, as early as fall 2002, schools and employees of schools participating in the II/USP could face sanctions from the state under the terms of the PSAA..

As mentioned earlier, the state has an excess amount of CSRD funds and has in the past had difficulty spending those funds. The federal CSRD grant allows the state to use up to 5 percent of the grant amount to pay the costs of administering the program—including evaluation activities. Since federal law requires the state to evaluate CSRD as part of administering the program, the AIR scope of work focuses mainly on II/USP and CSRD and the effectiveness of these intervention strategies, and federal funds are available for this purpose, the **LAO recommends that the Legislature provide \$500,000 of CSRD funds to continue the PSAA evaluation.**

In addition, since CDE /AIR were not able to begin the evaluation in the current year due to time and funding constraints and, therefore, will not be able to submit a meaningful report on the final evaluation by the current statutory deadline of June 31, 2002 (nor the preliminary findings report due, March 30, 2002), the **LAO also recommends that the Legislature amend statute to extend by one year both the preliminary findings deadline and final report deadline to March 31, 2002 and June 31, 2003, respectively.**

***Subcommittee #1 Action:***

### **V. Class Size Reduction (CSR)**

Chapter 163, Statutes of 1996 (SB 1777, O'Connell) established California's Class Size Reduction (CSR) program for grades Kindergarten through three. The Morgan-Hart CSR program for high schools which began in 1989 to serve a limited number of grades 9-12 high schools was amended in 1998 by Chapter 334, Statutes of 1998 (SB 12, O'Connell) to fund all ninth graders in two core subject areas. Both these programs are voluntary and are funded through the annual Budget Act.

- A. K-3 Class Size Reduction Deficiency Issue (Oversight Issue).** The Governor's budget proposes \$1.6 million for K-3 CSR in 2002-03. A similar amount provided for the K-3 Class Size Reduction Program in 2001-02; this after the Legislature remedied a disagreement between CDE and the Administration over the per pupil funding rate for 2000-01—leading to a \$32.0 million deficiency issue for that year—by rebenching the per pupil rate for 2001-02 at \$888 per pupil for the full day option and \$444 per pupil for the half day option. The CDE recently submitted a \$30 million deficiency request to the DOF for the K-3 CSR program in fiscal year 2001-02. According to the CDE, the enrollment projections used in computing the 2001-02 budget appropriation were too low, assuming a decline in K-3 enrollment statewide, though participation in the K-3 CSR program has been increasing each year. The current deficiency, based on estimated participation rates as submitted by LEAs by October 24, 2001 is \$4.6 million. Though actual enrollment won't be known until May or June of this year, the CDE anticipates that the deficit could grow to approximately \$30 million based on prior years' performances.

According to the LAO, while the current year deficiency may increase to \$32 million in the current year, any deficiency in the current year, or as yet unknown in the budget year, could be addressed within Budget Control Section 12.6 which, as adopted in 2001-02, provided unobligated funding

transfer flexibility among specified programs with voluntary participation (including CSR) to the extent needed to fully fund eligible participation.

The Subcommittee may wish to request the DOF, as well as the CDE, to speak to the issue of recurring deficiencies in the K-3 CSR program.

## **VI. Holdover Item**

- A. 2001-02 Budget Act Section 28.0 Requests.** Senator Steve Peace, chair of the Joint Legislative Budget Committee, recently sent a letter to Department of Finance Director Tim Gage, regarding Department's intent to approve several K-12-related augmentations pursuant to Section 28.0 of the 2001-02 Budget Act. He specifically raised concerns, supported by the Legislative Analyst, that the proposed augmentations in an increasing number of K-12 Section 28.0 Letters including the three listed below, do not meet all the requirements of Section 28.0; i.e. that the proposed funds are (1). "unanticipated," (2) are available only for a specified purpose, and (3). need to be expended in 2001-02. Senator Peace, therefore, requested that the DOF defer approving the proposals until both the appropriate Assembly and Senate Budget Subcommittees consider the proposals during a scheduled hearing and report their recommendations to the Joint Legislative Budget Committee.

**The issue facing the Subcommittee is whether or not the proposals as dated and outlined below, should be approved under Section 28.0 of the 2001-02 Budget Act or whether they should be addressed as part of the 2002-03 budget deliberations.**

- 1. February 13, 2002. Alternative Assessment.** This letter proposes an augmentation of \$1.2 million (federal funds) for the CDE to a) develop an alternative assessment for special education pupils unable to take the state's standardized tests (even with special accommodations); b) further develop an alternative accountability model for alternative schools; and c) ensure that students affected by either the alternative assessment or alternative model are also taken into account in the state's overall school accountability system.
- 2. February 15, 2002. Evaluation of High Risk First Time Offenders Program.** This letter proposes \$650,000 from carry-over federal funds (Improving America's Schools Act) for CDE to evaluate the High Risk First-Time Offenders program. These federal carryover funds will replace \$650,000 in General fund originally budgeted for this evaluation but deleted as part of CDE's compliance with an Executive Order which imposed a statewide reduction of at least \$150.0 million in 2001-02 General Fund operating expenses and equipment expenditures.
- 3. March 5, 2002. High School Reform Grant Program.** This letter proposes to increase CDE's federal fund expenditure authority by \$998,000 for a new, one-time High School Reform Grant Program. The United States Department of Education awarded California \$998,000 for high school reform through the High School Reform Grant competition. The CDE has 36 months to expend the award funds intended to help low performing high schools improve student achievement, attendance, and graduation rates. The annual state match, however, increases each year by 10 percent beginning with 30 percent the first year. To minimize the state match requirements CDE proposes allocating the full amount in the first year; providing matching funds from existing Specialized Secondary Programs (SSP) funds.

***Subcommittee #1 Action:***

**VII. Consent**

Staff recommends that the following Items be approved as budgeted. No issues have been raised with regard to any of these Items:

1. 6120-011-0001, Support of California State Library, Division of Libraries and California Library Services Board. \$14,787,000.
2. 6120-011-0020 Support, California State Library. State Law Library - Payable from the California State Law Library Special Account. \$764,000.
3. 6120-011-0890 Support, California State Library. Payable from the Federal Trust Fund. \$4,099,000.
4. 6120-011-6000. Support, California State Library. Library Development Services – Office of Library Construction. Payable from the California Library Construction and Renovation Funds. \$2,461,000.
5. 6120-012-0001. Support, California State Library. Rental payments on lease revenue bonds. \$2,394,000.
6. 6120-013-0001. Support, California State Library. Sutro Library Special Repairs. \$24,000.
7. 6120-102-0001. Local Assistance, California State Library. Library of California. \$3,390,000.
8. 6120-150-0001. Local Assistance, California State Library. Civil Liberties Public Education Program. \$1,000,000.
9. 6120-160-0001. Local Assistance, California State Library. California Newspaper Project. \$300,000.
10. 6120-211-0001. Local Assistance, California State Library. Library Development Services. \$21,120,000.
11. 6120-211-0890. Local Assistance, California State Library. Library Development Services, Payable from the Federal Trust Fund. \$12,518,000.
12. 6110-102-0890. Learn and Serve America Program, payable from the federal Trust Fund, \$2,131,000.
13. 6110-103-0890. Robert C. Byrd Honors Scholarship Program, payable from the federal Trust Fund, \$4,994,000.
14. 6110-112-0890. Public Charter Schools, payable from the federal Trust Fund, \$30,187,000.
15. 6110-141-0890 Title I Elementary and Secondary Education Act (ESEA), Migrant Education, payable from the federal Trust Fund, \$116,585,000.
16. 6110-166-0890. Vocational Education, payable from the federal Trust Fund, \$130,445,000.
17. 6110-176-0890. DELETE. Emergency Immigrant Education, payable from the federal Trust Fund, \$41,191,000. (consolidated under NCLB Title III, Language Acquisition.
18. 6110-183-0890. Health and Physical Education, Instructional Support—Safe and Drug Free Schools and Communities Act of 1994, payable from the federal Trust Fund, \$40,512,000.
19. 6110-232-0001 (9th Grade) Class Size Reduction Program, \$135,185,000
20. 6110-234-0890 DELETE. Federal Class Size Reduction Program, \$174,726,000 (funding eliminated in NCLB Act of 2001).